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February 23, 2011

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VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Federal-State Joint Board on Universal Service, High Cost Universal Service
Support – CC Docket No. 96-45; WC Docket No. 05-337

Connect America Fund – WC Docket No. 10-90

National Broadband Plan – GN Docket No. 09-51

Dear Ms. Dortch:

This letter responds to the January 31, 2011 *ex parte* filed by San Juan Cable LLC d/b/a OneLink Communications (“OneLink”) addressing efforts by Puerto Rico Telephone Company Inc. (“PRT”) to secure additional universal service support for broadband communications in Puerto Rico. As the *Sixth Broadband Deployment Report* shows, more Americans without access to broadband live in Puerto Rico than in any other U.S. state or territory. In addition, Puerto Rico still has the lowest telephone penetration rate as compared to any state in the United States. These facts are unacceptable. As a leading communications provider in Puerto Rico, PRT welcomes the burden of pressing the FCC to address this extraordinary communications deficit, and has thus offered two solutions to increase broadband in Puerto Rico. The first is the establishment of a non-rural insular fund for high cost loop support, which relied heavily on the FCC’s *existing* rules, proposed in WC Docket No. 05-337. The second is a pilot program for funding broadband deployment in Puerto Rico through competitive procurements, proposed in WC Docket No. 10-90. In discussions with the FCC, PRT has urged the Commission to move forward swiftly with either or both of these alternatives.

Despite the clear need for federal assistance, and the extraordinary support for additional funding for insular areas like Puerto Rico, OneLink has reemerged as the one and only opponent of this assistance for the people of Puerto Rico. To be factually clear, however, OneLink has not invested its own money to bring telephone or broadband service to poor customers in Puerto Rico. OneLink does not serve even one LifeLine customer and has never provided even a single person a Link-Up connection.

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Nor is there any reason to believe that OneLink will do so in the future. Instead, as discussed below, its sole interest is to block broadband and video competition from PRT to its entrenched cable service in urban San Juan.

I. ONELINK PRESENTS AN INCOMPLETE PICTURE OF THE DIFFICULTIES OF PROVIDING UNIVERSAL SERVICE IN PUERTO RICO BECAUSE IT DOES NOT PROVIDE SERVICE TO RURAL OR POOR AREAS.

Not surprisingly, OneLink is unfamiliar with the difficulties faced by PRT in providing telephone and broadband services to the residents of Puerto Rico. Unlike OneLink, PRT is an eligible telecommunications carrier committed to serving customers in Puerto Rico indiscriminately. In contrast, OneLink is a cable and Internet access provider in Puerto Rico that has cherry-picked the most profitable markets and provides service only to those customers.¹ As such, OneLink knows little about the challenges of serving poor and rural areas. And because it is not an eligible telecommunications carrier, it does not have a universal service obligation, and is not eligible for universal service support. Thus, OneLink is in no position to comprehend the unique challenges of providing universal service in Puerto Rico, or to claim that the absence of federal support for telephone and broadband in insular areas somehow serves the public interest.

Truth be told, OneLink's opposition is driven by its anti-competitive desire to block a new entrant to Puerto Rico's cable television market. OneLink is one of three incumbent cable operators in Puerto Rico, each of which has long held the only local "franchise" to provide cable service to distinct, non-overlapping areas of the island. In December 2008, however, PRT filed an application with the Telecommunications Regulatory Board of Puerto Rico (the "Board") for a franchise that would permit it to offer its own, rival video subscription service. Although the Board immediately initiated a proceeding to review PRT's application, that proceeding, as well as PRT's ultimate entry into the cable television market, has been frustrated by a barrage of litigation by OneLink.² OneLink's instant *ex parte* is merely OneLink's latest attempt to use its lawyers to suppress competition in Puerto Rico's cable television market. In other words, none of the universal service issues in this proceeding are relevant to OneLink's business.

¹ See Reply Comments of Puerto Rico Telephone Company, Inc., WC Docket No. 05-337, at 4 (June 22, 2010) ("PRT Reply Comments").

² PRT Reply Comments at 5-8.

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II. PRT DOES NOT HAVE A FRANCHISE TO PROVIDE CABLE SERVICE IN PUERTO RICO, AND EVEN IF PRT DID, GOVERNMENT SUPPORT WOULD STILL BE NEEDED TO ACHIEVE UNIVERSAL BROADBAND IN PUERTO RICO.

PRT's proposal to deploy and operate a profitable *cable service over top of its existing infrastructure* does not show that PRT—or any other communications provider—could offer *universal broadband service* in Puerto Rico without government support. OneLink's assertion to the contrary is incorrect and highlights OneLink's naiveté about serving poor and rural areas.³ As an initial matter, PRT committed in its franchise application to “offer service to 45.8% of the total households (homes passed) in at least 50 municipalities within 5 years”⁴ and to “offer ... service to 43 low-income communities in the first year.”⁵ PRT also outlined its long-term plan to provide cable service to all 76 municipalities by the end of the 18-year franchise license. It should be emphasized that this business plan was based heavily on a projected revenue stream for video services – services which PRT does not yet have authority to offer. The business plan also was limited to areas where PRT has existing infrastructure. Despite PRT's goal of providing service to as many households in Puerto Rico as possible, the unfortunate fact remains that many poor and rural areas in Puerto Rico do not have even basic telecommunications infrastructure, let alone infrastructure that would support cable television or broadband. In many of these areas, even with a video revenue stream, the business case for broadband deployment is likely impossible absent universal service support.

III. PRT HAS MADE SUBSTANTIAL INFRASTRUCTURE INVESTMENTS IN PUERTO RICO, BUT PRIVATE INVESTMENT ALONE WILL BE INSUFFICIENT TO ENSURE UNIVERSAL BROADBAND.

OneLink also is in no position to second-guess the significant infrastructure investments PRT has made in order to provide the residents of Puerto Rico with improved communications and information services. PRT and its parent company, América Móvil, have made substantial infrastructure investments consistent with the

³ OneLink alleges that PRT's plan to enter the cable market “clearly demonstrates that PRT needs no inducement to serve substantial portions of the island.” Letter from Aaron Bartell, OneLink Communications, to Marlene Dortch, FCC, at 4 (Jan. 31, 2010) (“OneLink Ex Parte”).

⁴ Puerto Rico Telephone Company, Inc., Application for Authorization to Provide Video Service, at 3 (Dec. 11, 2008).

⁵ *Id.* at Executive Summary.

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company's commitment to investing \$1 billion over five years to improve service in Puerto Rico. These investments have led to vast improvements to the infrastructure necessary to provide communications and information services in Puerto Rico.⁶ Yet, the economic challenges in Puerto Rico require additional, federal support in order to deploy high speed broadband-capable infrastructure to the entire island. Unlike OneLink, which serves limited metropolitan areas while specifically carving out poor areas like public housing projects from its territory,⁷ PRT's service territories span the entire island and, as such, face extraordinarily high costs relative to revenue opportunities given the unique demographics of Puerto Rico; demographic challenges with which OneLink has little experience. At bottom, the Universal Service Fund was explicitly established to ensure that the people of Puerto Rico have access to telecommunications and information services "reasonably comparable" to the rest of country.

IV. FEDERAL SUPPORT IS NEEDED TO BRING UNIVERSAL BROADBAND TO THE POOR AND RURAL AREAS OF PUERTO RICO THAT ONELINK CHOOSES NOT TO SERVE.

Despite OneLink's repeated attacks, PRT will continue to press the Commission for targeted federal government assistance to promote much-needed broadband in insular areas. For years, the Commission tried—and failed—to satisfy the communications needs of unserved areas in non-rural insular areas by treating them pursuant to universal service mechanisms built for dissimilarly-situated service providers. But non-rural insular areas need a distinct universal service funding mechanism to address their unique situations, including their vast low-income customer bases, weak overall economic health, and the additional expenses of providing service in insolated and tropical areas.

To this end, PRT has proposed two solutions: create a pilot program for Puerto Rico that funds broadband deployment through competitive procurements or establish a non-rural insular fund. Contrary to OneLink's assertion, neither plan is designed to "give PRT—and only PRT—money."⁸ The pilot program would use an RFP-type bidding process that would favor proposals that foster broadband deployment to the

⁶ PRT Reply Comments at 8-11.

⁷ See *Puerto Rico Telephone Co. h/n/c Claro TV v. Junta Reglamentadora de Telecomunicaciones de Puerto Rico*, No. CC-2009-380 at 43 (P.R. Sup. Ct. Jun. 9, 2010).

⁸ OneLink Ex Parte at 3.



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greatest number of people in unserved areas in the shortest time. And the insular fund would require recipients to make rigorous build-out commitments, something not required for high cost recipients outside of Puerto Rico. Under either program, PRT would hope that all Puerto Rican communications providers seek funding to build broadband.⁹ That said, PRT would not shy away from accepting federal funds if the FCC concludes that PRT offers the best business case for universal broadband in Puerto Rico.

Please direct any questions regarding this filing to the undersigned.

Respectfully submitted,

/s/ Nancy J. Victory

Nancy J. Victory

cc: Aaron M. Bartell (email)

⁹ Although the insular fund formula was modeled on the FCC's existing calculation of the loop expense adjustment for rural carriers, because of the identical support rule, 47 C.F.R. § 54.307, any ETC would be able to get the same per line funding as the wireline incumbent provided they satisfied any FCC conditions concerning the use of the funding.